

Application No.: 10/069,146

Docket No.: 22078-00001

**REMARKS**

Claims 15-20 are pending in the application. Claims 1-14 have been previously canceled and claim 15 has been amended by way of the present amendment.

In the outstanding Office Action, claims 15-20 were rejected under 35 U.S.C. §112, 2<sup>nd</sup> paragraph, as being indefinite; claim 15 was rejected under 35 U.S.C. §102(b) as being anticipated by Smith (U.S. Patent No. 755,804); claims 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Smith as applied to claim 15 and in view of Faroni (U.S. Patent No. 3,924,507); claims 16 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Smith as applied to claim 15 and in view of Bjorklund (U.S. Patent No. 4,233,880); and claim 19 was rejected under 35 U.S.C. §103(a) as being unpatentable over Smith as applied to claim 15 and in view of Cerny (U.S. Patent No. 4,800,787).

***Rejections under 35 U.S.C. §112***

Claims 15-20 were rejected under 35 U.S.C. §112, 2<sup>nd</sup> paragraph, as being indefinite. Applicant respectfully traverses the rejection.

Claim 15 has been amended to clarify the invention. In particular, independent claim 15 recites:

[a] driving tool ~~for~~ in combination with a predetermined security screw, the predetermined security screw comprising a threaded shank portion and a head portion . . . .

That is, the claimed invention is directed toward "a driving tool in combination with a predetermined security screw," as recited in claim 15. Support for the amendment is provided at least a page 2, lines 7-21 of the specification. Therefore, Applicant respectfully submits that the amendment raises no question of new matter and that claim 15, and claims dependent thereon, are definite.

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*Rejections under 35 U.S.C. §102*

Claim 15 was rejected under 35 U.S.C. §102(b) as being anticipated by Smith. Applicant respectfully traverses the rejection.

Claim 15 has been amended to clarify the invention. In particular, claim 15 has been amended to recite:

wherein the head portion has a circular profile about an axis of the threaded shank portion and a substantially dome-shaped smooth exposed surface without any tool engagement slots, and the substantially dome-shaped smooth exposed surface is symmetrically disposed about a longitudinal axis of the threaded shank portion[.]; . . .

wherein the friction drive surface is configured to fit against the substantially dome-shaped smooth exposed surface of the predetermined security screw so as to provide a friction drive between the head engaging portion and the predetermined security screw.

Support for the amendment is provided at least at page 1, lines 31 to 37; page 2, lines 7-21; and is shown at least in FIG. 2, of the specification. Therefore, Applicant respectfully submits that the amendment raises no questions of new matter.

Smith discloses a screw and driver tool where the head of the screw has a conical gripping-surface and the driver tool has a complementary-gripping surface to that of the screw.<sup>1</sup> In particular, Smith discloses that “[t]he tendency of the tool on the tapering head or projection of the screw is *to compress the metal thereof*, and thereby insures a firm grip being maintained” (emphasis added).<sup>2</sup> That is, Smith discloses driving the screw due to the tendency of the driver tool to “compress” the metal in the head of the screw.

However, Smith nowhere discloses, as recited in claim 15:

wherein the friction drive surface is configured to fit against the substantially dome-shaped smooth exposed surface of the predetermined security screw so as *to provide a friction drive between the head engaging portion and the predetermined security screw* (emphasis added).

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<sup>1</sup> Smith at page 1, lines 29-32.

<sup>2</sup> *Id.* at page 1, lines 45-46.

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That is, in contrast to Smith, the claimed invention drives the screw by using the recited "friction drive" between the "substantially dome-shaped smooth exposed surface of the predetermined screw" and the "friction drive surface" of the tool.

Therefore, Applicant respectfully submits that Smith neither discloses, anticipates or inherently teaches the claimed invention and that claim 15, and claims dependent thereon, patentably distinguishes thereover.

***Rejections under 35 U.S.C. §103***

Claims 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Smith as applied to claim 15 and in view of Faroni. Applicant respectfully traverses the rejection.

Claims 17 and 18 are dependent upon claim 15. As discussed above, Smith nowhere discloses the limitations of claim 15. Therefore, at least for the reasons discussed above, Smith also does not disclose the limitations of claims 17 and 18.

In addition, the outstanding Office Action combines Smith and Faroni in an attempt to compensate for the deficiencies of Smith. However, Faroni can not compensate for the deficiencies of Smith for the reasons discussed below.

Faroni discloses a theft-resistant fastener apparatus for attaching an object to a platform.<sup>3</sup> In particular, Faroni discloses a driving or installation tool 15 that is a modified pair of pliers.<sup>4</sup> Further, Faroni discloses, in order to install a shoulder bolt 20, "the jaw 17 of the tool 15 is positioned in bearing contact with the cup washer surfaces 26 as shown in Fig. 1 and the pliers are closed so that jaw 16 is brought to bear against the head 21 of the shoulder bolt 20."<sup>5</sup> In this way, the shoulder bolt 21 and cup washer 25 are held together.

Moreover, Faroni discloses that by applying "a turning motion to the handle of the installation tool 15 a corresponding torquing moment can be applied to the cup washer 25 and shoulder bolt 20 so that the threaded portion 23 of the bolt 20 can be threaded into the threaded aperture 11."<sup>6</sup> Therefore, Faroni discloses an installation tool 15 where both the shoulder bolt

<sup>3</sup> Faroni at Abstract, lines 1-2.

<sup>4</sup> *Id.* at column 3, lines 43-51.

<sup>5</sup> *Id.* at column 3, lines 53-57.

<sup>6</sup> *Id.* at column 3, lines 61-65.

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20 and cup washer 25 must be held by compressive forces in order to apply the torquing motion required for fastening.

However, Faroni nowhere discloses, as recited in claim 15:

wherein the friction drive surface is configured to fit against the substantially dome-shaped smooth exposed surface of the predetermined security screw so as to *provide a friction drive between the head engaging portion and the predetermined security screw* (emphasis added).

That is, in contrast to Faroni, the claimed invention drives the screw by using the recited “friction drive” between the “substantially dome-shaped smooth exposed surface of the predetermined screw” and the “friction drive surface” of the tool.

Further, the manner in which the “friction drive surface” and the “smooth exposed surface of the predetermined security screw” are “disposed about a longitudinal axis” of their respective shank portions, as recited in claim 15, further patentably distinguishes the claimed invention over Faroni. Thus, for the reasons discussed above, Faroni can not compensate for the deficiencies of Smith.

Therefore, it is respectfully submitted that Smith and Faroni, whether taken individually or in combination, do not disclose, anticipate or inherently teach the claimed invention and that claim 15, and claims 17 and 18 dependent thereon, patentably distinguish thereover.

Claims 16 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Smith as applied to claim 15 and in view of Bjorklund. Applicant respectfully traverses.

Claims 16 is dependent upon claim 15 and claim 20 is ultimately dependent upon claim 15. As discussed above, Smith nowhere discloses the limitations of claim 15. Therefore, at least for the reasons discussed above, Smith also does not disclose the limitations of claims 16 and 20.

In addition, the outstanding Office Action combines Smith and Bjorklund in an attempt to compensate for the deficiencies of Smith. However, Bjorklund can not compensate for the deficiencies of Smith for the reasons discussed below.

Bjorklund discloses a vandal-resistant, drilling and tapping screw constructed from highly corrosive resistant stainless steel material.<sup>7</sup> However, Bjorklund nowhere discloses, as recited in claim 15:

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<sup>7</sup> Bjorklund at Abstract.

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wherein the friction drive surface is configured to fit against the substantially dome-shaped smooth exposed surface of the predetermined security screw so as to provide a friction drive between the head engaging portion and the predetermined security screw (emphasis added).

That is, in contrast to Bjorklund, the claimed invention drives the screw by using the recited "friction drive" between the "substantially dome-shaped smooth exposed surface of the predetermined screw" and the "friction drive surface" of the tool. Thus, for the reasons discussed above, Bjorklund can not compensate for the deficiencies of Smith.

Therefore, it is respectfully submitted that Smith and Bjorklund, whether taken individually or in combination, do not disclose, anticipate or inherently teach the claimed invention and that claim 15, and claims 16 and 20 dependent thereon, patentably distinguish thereover.

Claim 19 was rejected under 35 U.S.C. §103(a) as being unpatentable over Smith as applied to claim 15 and in view of Cerny. Applicant respectfully traverses the rejection.

Claim 19 is dependent upon claim 15. As discussed above, Smith nowhere discloses the limitations of claim 15. Therefore, at least for the reasons discussed above, Smith also does not disclose the limitations of claim 19.

In addition, the outstanding Office Action combines Smith and Cerny in an attempt to compensate for the deficiencies of Smith. However, Cerny can not compensate for the deficiencies of Smith for the reasons discussed below.

Cerny discloses a system to install a vandal-resistant screw.<sup>8</sup> In particular, Cerny discloses a tightening member 8 with a cavity 10 that has an internal thread 12 that is able to tighten a peripheral thread 6 on the head 4 of the screw 2.<sup>9</sup> Further, Cerny discloses the system includes an abrading tool 38 with an internal abrading surface 40 that abrades the head to a predetermined profile "to eliminate any means of removing the screw" (emphasis added).<sup>10</sup>

However, Cerny nowhere discloses, as recited in claim 15:

wherein the friction drive surface is configured to fit against the substantially dome-shaped smooth exposed surface of

<sup>8</sup> Cerny at Abstract.

<sup>9</sup> *Id.* at column 2, lines 20-23.

<sup>10</sup> *Id.* at Fig. 3, Fig. 4; column 3, lines 7-11.

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the predetermined security screw so as to provide a friction drive between the head engaging portion and the predetermined security screw (emphasis added).

That is, in contrast to Cerny, the claimed invention drives the screw by using the recited "friction drive" between the "substantially dome-shaped smooth exposed surface of the predetermined screw" and the "friction drive surface" of the tool. Thus, for the reasons discussed above, Cerny can not compensate for the deficiencies of Smith.

In addition, Cerny discloses a cavity 10 that is *not* "configured to fit against the substantially dome-shaped smooth exposed surface of the predetermined security screw," as recited in claim 15, but instead has a thread 12 within the cavity 10 to tighten onto the peripheral thread 6 on the head of the screw 2, as discussed above (emphasis added).

Further, Cerny teaches away from the claimed invention by disclosing an abrading tool 10 that is applied to the screw 2 that destroys a sufficient amount of the screw head so as to make removal difficult.<sup>11</sup>

Therefore, it is respectfully submitted that Smith and Cerny, whether taken individually or in combination, do not disclose, anticipate or inherently teach the claimed invention and that claim 15, and claim 19 dependent thereon, patentably distinguish thereover.

### Conclusions

In view of the above, reconsideration and allowance are, therefore, respectfully solicited.

In the event the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number noted below.

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<sup>11</sup> *Id.* at Fig. 3, Fig. 4; column 3, lines 22-23.

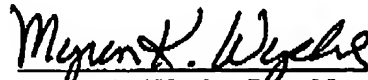
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Applicant believes no fees are due with this request. However, the Director is hereby authorized to charge any fees, or credit any overpayment, associated with this communication, including any extension fees, to Deposit Account No. 22-0185.

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Respectfully submitted,



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